

REMARKS

The Office Action of February 6, 2007, has been received and carefully considered. Claims 3, and 9-20 have been cancelled in view of the previous Restriction Requirement. Applicant reserves the right to present these claims in a continuing application.

Applicant has amended claim 1. No new matter has been added by these amendments. Claims 1, 2 and 4-8 are currently under examination.

Interview of May 8, 2007

Applicant wishes to thank Examiner Clark and her supervisor, Examiner Flood, for their time and thoughtful consideration of Applicant's position during the in-person interview with Applicant's representative.

Rejection under 35 U.S.C. §112, first paragraph

In the Office Action, the Examiner objected to the term "butter cake meal" in claims 1, 2 and 4-8, as not being described in the specification, and therefore lacking written description.

During the interview, Examiner Clark was referred to page 5 of Applicant's specification, where the term "by-product" refers to the by-product from production of butter fat from shea butter tree or Indian butter tree. The terms "by-product", "waste-product", "butter cake meal", "press cake", "extracted residue" etc. are defined in the specification as the terms being capable of being used interchangeably. The Examiner acknowledged that the term "butter cake meal" was defined in the specification, and agreed to withdraw the rejection. It was understood that this also applied to the Examiner's objection to the title of Applicant's application as well.

Rejection under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 1, 2, and 4-8, under 35 U.S.C. §112, second paragraph, as indefinite, because the Examiner did not understand what the term "butter cake meal" meant within the scope of the claims. In view of the comments of Applicant's representative during the interview, explaining the definition of "butter cake meal" in the specification, the Examiner agreed to withdraw this rejection. In addition, the Examiner requested that claim 1 recite the Latin name of the shea butter tree (*Butyrospermum parkii*) in italics, which Applicant's representative agreed to do. Claim 1 has been amended by italicizing the Latin

name. Applicant respectfully requests withdrawal of this rejection.

Rejection under 35 U.S.C. §103(a)

The Examiner maintained rejection claims 1, 2 and 4-8 under 35 U.S.C. §103(a) as unpatentable over Oura et al., in view of Noller and Vogel et al. (Fermentation and Biochemical Engineering Handbook-Principals, Process Design and Equipment (2nd Ed.)), for the reasons set forth in the previous Office Action.

The rejection of claims 1-2, and 4-8 as obvious over Oura et al., in view of Noller and Vogel et al. was discussed with the Examiner at length during the interview of May 8, 2007.

The basis of this rejection appeared to be centered on the washing steps disclosed in Oura et al., and the heating step taught in Applicant's claim 1. The Examiner was concerned by the description in column 2 of Oura et al., where there is a brief discussion of washing the nutmeal with water and heating in the presence of an alkali (col. 2, lines 30-48). With help of Applicant's table summary, which compared the two distinct processes, and which Applicant included in the previous Response

(Response of 8 November 2006, page 12), Applicant's representative was able to show the Examiner that Oura et al. does not perform an extraction with the washing step. Oura et al. wash the ground nutmeal to remove the odor. Sometimes alcohol solution is used in place of water. At no time do Oura et al. add acid or alkali to the wash water.

Applicant's representative pointed out during the interview, that the heating step in Oura et al. occurs with the dry washed nutmeal, not in the aqueous alkali solution, as is done in Applicant's claimed process. Oura et al. teach that the color of the nutmeal can be darkened by addition of 20 ml of water having potassium carbonate dissolved in it, in 100 g of nutmeal. Applicant's representative indicated to the Examiner that such a small amount of water is not a solution, and that the liquid water is evaporated off with the heating of the nutmeal. The fact that the nutmeal itself is the resultant product of the Oura et al. process was also pointed out to the Examiner.

In contrast to Oura et al., Applicant's representative showed that Applicants' process extracts the compounds of interest using a large volume of heated aqueous alkali solution (approximately 6 L), and the nutmeal is filtered off and discarded. The aqueous solution is then concentrated and the compounds are

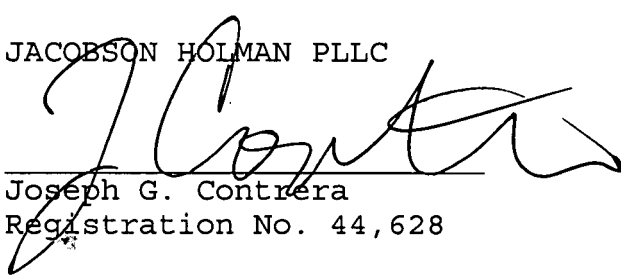
isolated. The fact that the nutmeal is not the product of interest in Applicant's process was stressed in the discussion with the Examiner, because Applicant's method performs the inverse steps, namely, retaining the extraction liquid, and discarding the nutmeal. The dry nutmeal is not heated. In fact, after the initial extraction the nutmeal is discarded in Applicant's application.

Applicant submits that the Examiner has failed to establish a *prima facie* case of obviousness with regard to claims 1, 2 and 4-8, because Oura et al., in view of Noller and Vogel et al., do not teach each and every step of Applicant's claimed process. As such, Applicant respectfully requests withdrawal of this rejection.

It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

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